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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/757,401	11/13/2000	Brian Armbruster	10201-US-CPA	8683

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BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE N W
WASHINGTON, DC 20037

EXAMINER

YUSSUF, SAJID

ART UNIT	PAPER NUMBER
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2141

DATE MAILED: 06/10/2004

5

Please find below and/or attached an Office communication concerning this application or proceeding.

of

Office Action Summary

Application No.

09/757,401

Applicant(s)

ARMBRUSTER ET AL.

Examiner

Sajid A Yussuf

Art Unit

2141

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 13 November 2000 and 24 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-42 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 25-42 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification Objections

1. 37 C.F.R. § 1.72 requires that the title of the invention be as specific and descriptive as possible. A new title is required that is clearly indicative of the invention to which the claims are directed, especially "central cache," "distributed cache," "local cache," by example. The title, therefore, is not as specific as possible.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

3. A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

4. Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 25-42 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-5 and 10-11 of U.S. Patent No. 6,243,760 ('760). Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following:

6. Claim 25, part (a) & (b) claim providing a central caching unit having at least one network address associated therewith and operative to receive data over the network from servers storing data providing information content, and storing cacheable data from the central caching unit at the central caching unit. Claim 1 of '760, part (b) recites a central caching unit having a network address associated therewith for storing cacheable data from at least one site, where one site includes cacheable data. It would have been obvious to replace "a server storing data" with "one site which includes cacheable data" because they are equivalent in the art.

7. Claim 25, part (c) claims broadcasting cacheable data from the central caching unit over a satellite broadcast system directly to distributed local caching units associated with local access nodes giving remote users access to the wide area network for the retrieval of data from the servers. Claim 1 of '760, parts (d) & (f) recite a communication system (such as a satellite communication system: Claim 3 of '760), distinct from the wide area network, for establishing communication between the central caching unit and the local caching units for the transfer of cacheable data directly from the central caching unit to the local caching units and a plurality of local access nodes for permitting the remote users to access the wide area networks. It would have been obvious to replace "a communication system", with "a satellite broadcast system," because a satellite broadcast system was thought in the dependent claim 3 of '760.

8. Claim 25, part (d) claims selectively storing the broadcast data at the local access nodes in the local caching units. Claims 1, part (e), and claim 10 of '760 recite distributed local caching units associated with the local access nodes for locally storing cacheable data, wherein filtering means at the distributed local caching units permit multicast material to be filtered in accordance with local requirements. It would have been obvious to replace "locally storing cacheable data," with "selectively storing broadcast data at local caching units," because a satellite broadcast system was thought in the dependent claim 3 of '760, and filtering means was thought in dependent claim 10 of '760, which is an equivalent of selectively storing data.

9. Claim 25, part (e) claims receiving requests from users at the local access nodes for data stored in the associated local caching units, and if the data is stored in the associated local caching unit providing the data to the requesting user, otherwise, re-routing the requests to retrieve the data over the wide area network. Claim 1, part (g) of '760 recites routing means for responding to user requests, by first establishing a connection with the local caching unit to retrieve the data if present, and if the requested data is not present, establishing a connection over the network with central caching unit to retrieve the data. It would have been obvious to replace "establishing a connection over the network with central caching unit," with "re-routing the requests to retrieve the data over the wide area network," because the central caching unit is the only other location where the request would be executed and therefore is an equivalent to the system.

10. Claim 26 claims a program running at the local access nodes selects what incoming broadcast data to save and discard. Claim 10 of '760 recites wherein filtering means at the distributed local caching units permit multicast material to be filtered in accordance with local requirements. It would have been obvious to replace "multicast material to be filtered in accordance with local requirements," with "a program running at the local access nodes to select what data to save and discard," because the filtering means of '760 would inherently require a program to do so.

11. Claim 27 claims where the wide area network is the Internet. Claim 11 of '760 is that exact limitation.

12. As per claims 28-42, the limitations are combinations of claims 25-27, and are therefore rejected under the same rationale.

Claim Objections

13. Claims 28, 30, 37, and 39, are objected to because of the following informalities: "cachable" is misspelled on lines 2, 2, 4, and 4, respectively. It should read instead "cacheable."

14. Appropriate correction is required.


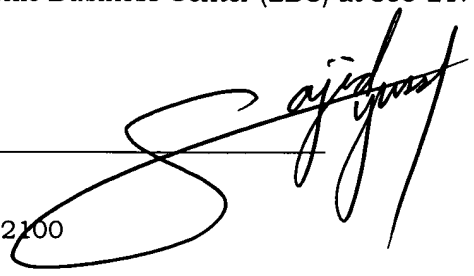
Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sajid A Yussuf whose telephone number is (703) 305-8752. The examiner can normally be reached on Monday-Thursday 7:30-5:00 PM and Alternate Fridays.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (703) 305-4003. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Sajid Yussuf
Patent Examiner
Technology center 2100
8 June 2004



RUPAL DHARIA
SUPERVISORY PATENT EXAMINER